

REMARKS/ARGUMENTS

In view of the amendments and remarks herein, favorable reconsideration and allowance of this application are respectfully requested. Claim 12 and 19 have been amended hereby, and claims 20-23 have been newly added. Claims 12 and 15-23 are pending examination.

Claim 12 and 15-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Martin et al. (U.S. Pat. 5,848,398 “Martin”) in view of Johnny Rockets Name That Tune (“Johnny Rockets”) and further in view of Tom & Liz’s Name That Tune (“Tom & Liz”). For at least the following reasons, Applicant believes that the pending claims, as amended, are allowable over the prior art of record.

Every element of the combination taught in independent claims 12 and 19 is not present in the applied references. For example, claim 12 recites, *inter alia*, “and further wherein the jukebox system is operable to randomly select the musical recording to be played for the game from the customized library of musical recordings.” Similarly, claim 19 recites, “wherein said terminal is operable to randomly select the musical recording from the customized library of musical recordings for further game play.”

The Office Action concedes that Martin is silent on these claim elements and introduces Johnny Rockets to compensate for this deficiency of Martin. There is no indication, however, that Johnny Rockets “randomly selects the musical recording.” Further, Johnny Rockets does not “select the musical recording to be played for the game from the customized library of musical recordings.”

According to the Office Action “the Johnny Rockets Name That Tune game can only be played with the data stored in the memory at that point in time. Therefore, the contents in the memory are the current contents of the musical library.” Data stored in memory for the purpose of playing the portion of the song presently being heard is not a “customized library of musical recordings.” Further, Johnny Rockets does not teach selecting anything at random from this data. Tom & Liz does not cure these deficiencies of Johnny Rockets.

For at least these reasons, Applicant respectfully submits that claims 12 and 19 are patentably distinct from the prior art. Claims 15-18, and 20-23 should be patentable based at least on their dependency from claim 12.

Also, the Office Action admits that neither Martin nor Johnny Rockets includes “the server collects game performance information for a plurality of different users and ranks the users according to their performance” as recited by claim 16. The Office Action introduces Tom & Liz to provide this element.

In the system of Tom & Liz, however, the players in the game email their answers to Tom and Liz. Tom & Liz does not teach or suggest that the server is collecting any game performance information, or that the server, as opposed to the person reading the emails, is ranking users according to their performance. Nor is this feature inherent in the

system of Tom & Liz, as there are many different ways that the answers could be processed and the players could be ranked.¹

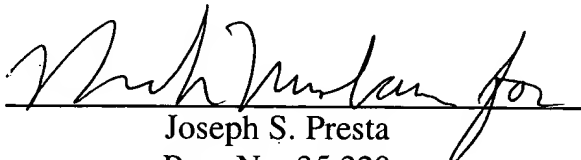
For at least this additional reason, Applicant submits that claim 16 and claims 17 and 18 dependent therefrom are patentable over the prior art of record.

For at least the foregoing reasons, Applicant respectfully submits that the invention defined by the amended claims herein is not taught or suggested by the prior art of record. Thus, withdrawal of the rejections and allowance of this application are earnestly solicited.

Should the Examiner have any questions regarding this application, or deem that any formal matters need to be addressed prior to allowance, the Examiner is invited to call the undersigned attorney at the phone number below.

Respectfully submitted,

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¹ Applicant contacted Tom & Liz via email, and was told in a response email that the process was done by hand, not automatically (see attached).



From Tom & Liz's NTT <tomnlizsntt@earthlink.net>

Sent Tuesday, January 30, 2007 7:35 pm

To Bernard P Tomsa <btomsa@gmu.edu>

Cc

Bcc

Subject Re: NTT Question

Hi Bernie, We just do it by hand. It isn't automatic.

----- Original Message -----

From: Bernard P Tomsa

To: TomnLizsNTT@earthlink.net

Sent: Monday, January 29, 2007 4:20 PM

Subject: NTT Question

Tom and Liz,

Have you always hand-checked each answer and hand-scored and hand-ranked the winners or do you have a program that does it automatically?

Thanks,

Bernie Tomsa

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